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Abstract

This article examines concerns regarding the formation of a dual labor market in Japan-Indonesia/Philippines projects under the Economic Partnership Agreements (EPAs) by comparing legal framework, rules, guidelines and actual conditions. These potential problems were identified before the agreements went into effect. An institutional framework has also noted different alternatives that might mitigate these difficulties.

Ensuring equal remuneration for Japanese and migrant workers and providing sustainable Japanese language skills and adequate exam preparation might prevent the worsening of wage and working conditions in the labor market.

Through an analysis of three surveys, this article argues that the accepting organizations have introduced an increasing bipolarization of training hours. Furthermore, the numbers of accepting organizations are decreasing due to this imposed burden. The first cause of this is the weakness of the educational infrastructure in overcoming examination difficulties in Japanese. This is partly due to the fact that the EPAs began before their terms and conditions were clearly defined. The early formative years show that the Japanese government took a noninterventionist stance and continuous learning has been difficult for some candidates because the accepting organizations, hospitals and care facilities, are not educational institutions. Even though the Japanese government has spent 1.5 billion yen over the last two years to improve the training infrastructure, bipolarization continues to be a major issue.

Even with the higher satisfaction ratio of patients under EPA, the number of accepting organizations is declining, and concurrently, the number of licensed nurses entering Japan through non-EPA channels is increasing. The examination pass-ratio of these non-EPA nurses greatly outnumbered that of the EPA candidates, which seriously calls into question the significance and sustainability of EPA in its current form.

Keywords: EPA, dual labor market, deskilling, level of care

I Introduction

As demographic changes increase, the risks of a new deficit in the labor force have become a salient issue, especially in the case of insufficiency in care. Care is defined as paid or unpaid work essential for maintaining regular daily life, supplied by government, market, family, or community [Esping-Andersen 1990]. The welfare system has clarified the supply mechanism of welfare such as that care in different countries and the issues related to the aging process are not limited to which sector will provide the care. It is also a question of who will compensate the providers for the mushrooming "care deficit." The sustainability and security of care is a significant issue for aging societies, as the populations in

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developed nations continue to decline. Unlike manufacturing, care provision cannot be automated, cannot attract a labor force by raising wages in a welfare state constrained to institutionalized wages determined by the state, and cannot be outsourced overseas. Hence, care cannot be seen in terms of productivity that can easily be increased. Thus, securing care providers is now a crucial matter for aging societies suffering from a declining workforce as will be discussed later.

According to Japan's National Forum on Social Security, between 2007 and 2025, the demand for elderly care workers will double and that for nurses will increase 30–60% [National Forum on Social Security 2008]. Elderly care and nursing are two fields with a chronic lack of workers; an issue shared by all the developed countries to a certain extent. However, it is a job market that potentially can absorb a great number of the unemployed, thus it is expected to help decrease current and future unemployment rates. A Cabinet decision by the Democratic Party of Japan set a goal of turning the occupations of elderly care and nursing into a 50 trillion-yen market and creating an additional 2,840,000 jobs by 2020.¹⁾

Nevertheless, there remains a strong concern about these promising fields because of the demographic dilemma. First, it is hard to believe that the country can find an additional 2,840,000 people to accept these jobs when the qualified working-population (aged between 15 and 64) is forecast to decrease by eight million over the next 10 years (2010–20), thus causing a severe shortage in the workforce.

Second, the ability to supply this labor continues to be an unstable factor that depends on changes linked to the present economic climate. As the economy recovers, people tend to gravitate to fields that can offer higher incentives; and if the economy shows a downward trend, they will return to care work. In particular, as more of the baby-boomer generation requires elderly care, the demand will increase dramatically. In other words, contrary to the steadily increasing demand for elderly care, the ability to supply that care is unstable. Unless an adequate number of workers in the care sector can be guaranteed regardless of the economic climate, the quality of elderly care will inevitably decline.

Third, a shortage of elderly care providers will not lead necessarily to higher wages. Wages in the medical and welfare sectors are dependent on the insurance system and, to a certain extent, already established. System-based wages are not flexible as in the labor market and do not increase significantly even when the workforce is inadequate.

Two reasons can be given for the mobilization of a potential workforce for elderly care. One is the problem of compatibility between unpaid care at home and paid work outside the home. The pressure for family care is expected to increase in the future, based on the anticipated slashes to care-related services under Long-term Care Insurance.²⁾ Therefore, utilizing the potential workforce will become

1) The decision was made June 18, 2010. See, <http://www.kantei.go.jp/jp/sinseichousenryaku/sinseichou01.pdf> (accessed Sept. 19, 2011). Examples of post-crisis employment policies are Comprehensive Immediate Policy Package to Ease Public Anxiety, Measures to Support People's Daily Lives, Immediate Policy Package to Safeguard People's Daily Live and Policy Package to Address the Economic Crisis amount to 3,000 billion yen in by 2008 and 2009. Care work is one of the target jobs.

2) Long-term Care Insurance is a universal long-term care system introduced in 2000 with the aim of supporting independence and preventing overextension of family care. However, based on the increase in service recipients, the sustainability of the budget has become a social issue.

more difficult.³⁾ In order to encourage women to continue working, compensation is necessary. That would necessitate securing outsourcing methods in the market, within communities, and/or in the workplace, as well as reconsidering the gendered division of labor. The second reason is that the wage standard discourages mobilization. This is not related exclusively to compensation for elderly care under the Long-term Care Insurance set by the government institutionally. In Japan, the minimum wage is often lower than the standard of public assistance, which discourages people who potentially would be willing to work. Thus, the minimum wage is set at a lower point as a reservation wage.⁴⁾ Unless these systemic contradictions are resolved, attracting an adequate workforce into the labor market will remain difficult.

In general, a “deficit of care” makes it hard to utilize the potential workforce, a problem that is not limited to elderly care. If we attempt to compensate for the deficit of care at home through other outsourcing methods — including public facilities — we will be required to compensate for the deficit of care in their families generated by those working in outsourcing facilities. The title, “care chain dilemma,” applied to this situation, implies that outsourcing may not solve the care-deficit problem. The problems of an increase in care demand are due to changes in the demographic composition and also to the increase in the workforce demand, caused by a decline in the working-age population. These issues will become even more obvious in the future and may be difficult to solve within the country’s labor market.

Although aware of this global concern, Japan’s migration policy has continued to fluctuate and remains ambiguous, even after accepting the EPA candidates as potential registered nurses and certified care workers. Having denied that there is a shortage of nursing and care staff, Japan’s Ministry of Health, Labour and Welfare (MHLW) announced it would accept human resources from Asian countries due to national interests in terms of trade liberalization.⁵⁾ This political inconsistency has introduced confusion into the implementation of the program. Although the MHLW and associations such as Japanese Nursing Association (JNA) are reluctant to accept foreign health-care staff due to the fear of the formation of a dual labor market in Japan, bipolarization is becoming a reality due to unclear purposes and confusion among accepting organizations.

This article examines the authenticity of these fears regarding the formation of a dual labor market in the case of the EPAs by comparing existent legal frameworks, rules, guidelines and actual conditions. The author conducted a series of interviews with EPA candidates (n=40), those who accepted them at hospitals and facilities (n=10), Japanese governmental bodies such as the Ministry of Economy, Trade and Industry (METI), MHLW, Ministry of Justice (MOJ) and the Ministry of Foreign Affairs (MOFA), Japan Foundation, AOTS (The Association for Overseas Technical Scholarship), government officials

3) This is as in the case of a cut in in-home services for those who live with family despite the fact that MHLW mentioned that cutbacks to services should be determined based on the availability of family members on care.

4) Reservation wage is the point of wage level that mobilizes a person to accept a job.

5) The Ministry has been denying the reason for its acceptance as labor market is demand since the negotiations with the Philippines. Current official position is available from the following, <http://www.mhlw.go.jp/bunya/koyou/other22/> (accessed Sept. 20, 2011).

of the Philippines such as POEA (Philippines Overseas Employment Administration), TESDA (Technical Education and Skills Development Authority), the Embassy of the Philippines in Japan, the Philippines Nurse Association and officials of Indonesia such as the Ministry of Health, National Board for Placement and Protection of Indonesian Overseas Workers (Badan Nasional Penempatan dan Perlindungan Tenaga Kerja Indonesia, abbreviated as BNP2TKI), the Embassy of Indonesia in Japan, the Indonesian Nurses Association, hospitals, nursing colleges, recruitment agencies, etc., over a period from 2004 to 2011.

II Fears of the Formation of Dual Labor Market

Anxiety over the formation of a dual labor market had been noted before the EPA programs were implemented [Hasegawa 2006; Kawara 2005; Okaya 2005]. Major causes include low wages that reduce the wages of local workers and skill levels not compatible with local settings in the areas of language, education and qualification. Goto [1990], for example, notes how accepting migrant workers increases the labor supply as well as reducing personnel costs, thus increasing profits. However, we must also note that this lowers the wage levels of local workers, which may motivate them to transfer to other sectors to compensate. Though this theory is widely accepted, it may not be applicable to medical and welfare sectors where labor demand is both stable and strong due to demographic changes, much more stable than in the manufacturing sector which is vulnerable to economic cycles.

One commonly accepted dual labor-market theory is the following: When migrant workers' wage levels are low, employers' incentives towards investment to increase productivity such as mechanization and automation may be reduced because low wages compensate for productivity. The reliance on low-wage workers may sustain the industry's low productivity and enable it to rely on low-wage workers to be more internationally competitive, which in itself becomes a vicious cycle. Therefore, if this is the case within an industry, the result can be sluggish investment, innovation and low productivity. An example of this would be a sweatshop. However, this argument is based on the premise that migrant workers are low-wage workers, but that is not always the case. Asato [2005; 2007] have clarified that the employment costs of migrant workers is not lower than predicted and sometimes, can be higher than the local workers due to costs of recruitment, education, management and lodging. In the case of Japan, excluding trainee programs, the remuneration for local workers is equivalent to that for migrant workers, which prevents the formation of a dual labor market.

Asato has also clarified the complementary position between local and foreign workers in the labor market [Asato 2007, forthcoming], and establishes that employability is socially and institutionally constructed in the process of recruitment. There are a number of examples that illustrate this position: (1) when migrant workers pay large recruitment fees to brokers, they are inclined to accept difficult working conditions such as overtime to maximize income and lower turnover rates; (2) when migrant workers are obliged to stay in a workplace, they are inclined to accept night and holiday shifts; (3) migrant workers are inclined to accept lower wages because of their weakened negotiating power; and (4) though migrant workers often possess higher skills than the local workers in host countries, they experience downward mobility in their social position due to the fact that their skills may not be recognized. This enables employers to shape migrant workers' labor to match the employers' needs. Thus,

a dual market is socially constructed and affected by recruitment processes and employment but it is not formed automatically after accepting migrant workers. Thereby, foreign workers are transformed in a way that complements local workers such as through high wages, a high turnover rate, operating on holidays, the aging of employees, gender composition and so forth.

This article, based on the previous studies, clarifies how the institutional settings and policy implementation affect the actual conditions of the EPA candidates and accepting institutions.

III The Labor Market and the Position of the EPAs

Even faced with the present tight conditions of the care-labor market, the MHLW denies there is a shortage of nurses and care workers. Examination of the supply versus demand estimates of available nurses, based on the estimates of the Japanese nurse workforce by MHLW, makes this clear. Tables 1, 2 and 3 offer comparisons of three consecutive five-year plans. The MHLW estimates predict that the demand-supply gap will narrow within each five-year plan. For example, according to the 2,000 estimates, the gap of 35,400 persons recorded in 2001 would be solved by 2005 by the mobilization of potential nurses not yet in the labor market. The next five-year plan, released in 2005 estimated that

Table 1 Five-Year Estimate on Nurse Workforce (2000)

	2001	2002	2003	2004	2005
Demand	1,216,700	1,240,700	1,263,100	1,284,900	1,305,700
Supply	1,181,300	1,212,000	1,242,000	1,271,400	1,300,500
Gap	35,400	28,700	21,100	13,500	5,200
Sufficiency ratio	97.1%	97.7%	98.3%	98.9%	99.6%

Source: [Japan, MHLW 2000]

Table 2 Five-Year Estimate on Nurse Workforce (2005)

	2006	2007	2008	2009	2010
Demand	1,314,100	1,338,800	1,362,200	1,383,800	1,406,400
Supply	1,272,400	1,297,100	1,325,100	1,355,900	1,390,500
Gap	41,600	41,700	37,100	27,900	15,900
Sufficiency ratio	96.8%	96.9%	97.3%	98.0%	98.9%

Source: [Japan, MHLW 2005]

Table 3 Five-Year Estimate on Nurse Workforce (2010)

	2011	2012	2013	2014	2015
Demand	1,405,100	1,430,200	1,454,800	1,477,700	1,500,000
Supply	1,348,800	1,378,900	1,411,600	1,446,700	1,484,600
Gap	56,300	51,300	43,200	31,000	15,400
Sufficiency ratio	96.0%	96.4%	97.0%	97.9%	99.0%

Source: [Japan, MHLW 2010a]

a gap of 41,600 nurses would be narrowed down to 15,900 nurses by 2010. The logic here is that the gap will be filled due to a mobilization policy, identical in all the estimates. Reality contradicts these optimistic estimates. The gap has been widening in every report, until by 2011, it is estimated at more than 56,000. Even with the statistical evidence of ongoing chronic shortages, the MHLW and the Japanese Nursing Association (JNA) maintain that the shortages can be solved through the mobilization of potential nurses. This is the basis of their resistance to receiving foreign nurses.

From its beginning, one of the prime difficulties in effectively implementing the EPA program has been the opposition of the ministries and other organizations.

IV Position of the EPA Program in Official Documents

Even with this reluctance from related organizations, it is very clear from the official documents in Japan that the EPA program is a training program for the enhancement of candidates' knowledge and skills so that nurses from both sending countries can earn recognition as nurses or certified care workers in Japan, safeguarded by labor laws that prevent them from being underpaid without allowing a decrease in the wage level of local workers.

Let us examine the official position of the EPA program from the perspective of Indonesian nurse candidates. First, they are defined as persons who enter and stay in Japan for the purpose of obtaining national licensure as registered nurses, as defined in the Indonesia-Japan Economic Partnership Agreement (IJEPA) according to a guideline issued by MOJ May 26, 2008.

Second, MHLW Notification No. 312, issued May 29, 2008, clearly states that the responsibility of Indonesian nurse candidates is to make an effort to acquire the necessary knowledge and skills to qualify for a national license to work as nurses or certified care workers and to contribute to the promotion of the public health of both countries after passing the national board examination. Notification No. 312 defines the responsibility of accepting institutions to provide an environment that allows candidates to learn the necessary knowledge and skills to practice their profession in the field of public health. This clause also designates that candidates should be provided appropriate labor conditions in accordance with Japan's labor-related laws. What this makes clear is that both parties share responsibility for the candidate's acquisition of the nursing license.

Third, according to the MHLW, acceptance of the EPA candidates is a program connected with training for the national board examinations in Japan. Notification issued September 8, 2010, stipulates that after language training the candidates are to work based on contracts with accepting institutions while receiving training for the national board examination for registered nurses and certified care workers.

The purpose of the program is defined primarily as a training program, which operates under the labor laws, as in a standard contract. However, ambiguity in the application of this program becomes evident soon after the program was launched.

V Conflict between Work and Study

A particularly common source of friction between accepting institutions and candidates is employers'

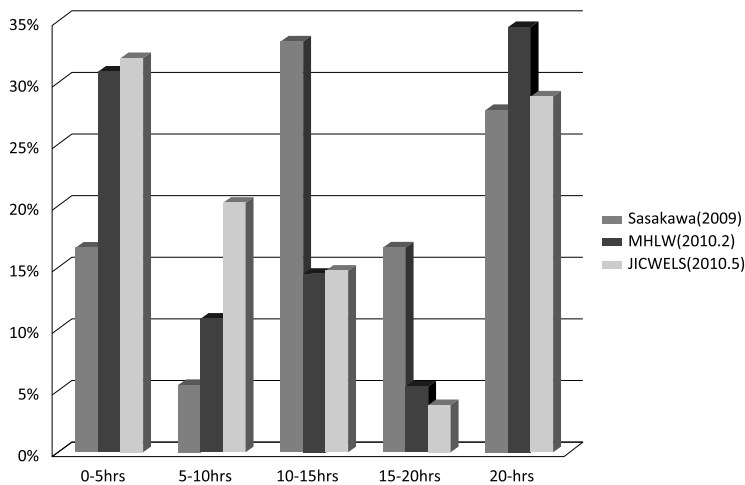


Fig. 1 Distribution of Weekly Learning Hours

Source: [Asato 2010a, 2010b; Japan, MHLW 2010b; JICWELS 2010]

refusal to acknowledge learning time as work time. The following chart clarifies the issue by quantifying learning hours employed in preparation for the national board exam including Japanese language study.

Fig. 1 indicates that learning hours became bipolarized among institutions that accepted the first batch of Indonesian candidates.⁶⁾ According to the survey in August 2009 conducted by the Sasakawa Peace Foundation (n=17),⁷⁾ training hours were approximately 13.2 hours per week. The hours are split between exam preparation and Japanese language study. The Sasakawa survey's average, 13.2 hours, is divided into 8.8 hours for the former and 4.4 hours for the latter. Approximately 15% of the surveyed institutions provide the fewest training hours, 0–5 hours per week. However, according to the survey conducted by the MHLW in February 2010 (n=36), the distribution of learning hours has become bipolarized. The average of weekly training hours has remained comparable at 13.3 hours.

However, the ratio of institutions that provide less than 5 hours rose to approximately 30%, while those allotting 20–25 hours per week, 4–5 hours per day, equals 30% as well. The increase in the number of institutions that provide more learning hours is largely due to the results of the board examination conducted in February. Nonetheless, there is a clear decrease in the ratio of institutions that provide the fewest learning hours. Even though institutions recognized the importance of allowing sufficient time for exam preparation, the fact that they decided it was more important to emphasize work rather than studying for the national board examination, may have caused the bipolarization. This dichotomy puts into question the purpose of the program. The tendency does not change in Japan International Corporation of Welfare Services (JICWELS hereafter) visitation survey in May 2010. The

6) The first batch of Indonesian nurse candidates included 104 candidates placed in 47 hospitals.

7) This is an unpublished report by the Sasakawa Peace Foundation. The author was part of the research team.

bipolarization is, in a way, a rational choice of an employer to save the additional expenses, which do not directly contribute to training and invest the funds to raise productivity so that a candidate can perform capably after obtaining the license.

No definitive solution was found in these cases despite the fact that the candidates involved refused to accept their situations and consulted with their superiors and/or JICWELS. Since migrant workers are not generally familiar with external support agencies such as the Labor Standards Supervision Office, they tend to feel that they cannot do more.

VI Pressure toward Segmentation of Labor Market

There have also been cases where, in order to ease their burden, accepting organizations have not paid their workers for training time. According to Ministry regulations, since the original provision that training time should be compensated as work hours is binding, this training time should always be paid unless there is a separate agreement between the employee and the employer.

Filipino nursing candidates and the Philippine Embassy in Tokyo regarded this as a serious problem. According to the embassy, candidates most frequently mentioned that although they thought that they were guaranteed 40 work-hours a week, as stipulated in their contracts, training time was not being paid — therefore, they did not earn as much as they expected. Recently, employment contracts have factored this training into the accounting and include ways of paying employees for less than 40 hours work, for example by paying them for “four days per week” instead. Beginning with the third group of candidates, the embassy examined the possibility of not entering into contracts with any accepting organizations that do not pay for training during work hours.⁸⁾

Furthermore, from the viewpoint of the Japanese government, the Philippines’ Department of Labor and Employment (DOLE) was not so cooperative in regard to the EPA language program when Japan’s MOFA began a pre-departure Japanese-language training program in Indonesia and the Philippines. The department authorized only two to three months of training in the Philippines instead of the six months scheduled for implementation in Indonesia beginning in late 2011, even though this program is funded by the Japanese government.

The Philippine government is also reluctant to accept Japan’s request to impose a Japanese-language quiz on Filipino applicants for the EPA program and release the results as information for matchmaking between the Filipino applicant and the Japanese employer. According to the Labor Office of the Philippine Embassy in Tokyo, the current EPA implementation is far from what its government expected due to a number of reasons. One is the working-hour issue explained above; the second is an issue regarding *jun-kaigo fukushishi* (certified assistant care worker).⁹⁾ Countering this, the MHLW recognizes that precisely 40 hours of work per week is not essential, as long as social insurance remains

8) Interview with an official of the Labor Office of the Philippine Embassy in Tokyo, Aug. 19, 2010.

9) The author will not go into the details here. According to the Labor Office, the *jun-kaigo fukushishi* issue was not raised in the negotiation at all, and the Japanese government brought this issue after ratification of the JPEPA at the Philippine Senate.

applicable.¹⁰⁾ This means that each accepting institution can determine working hours at its discretion.

It is not only the Philippine government that has expressed difficulties. Before the implementation of the EPA program, the National Board for Placement and Protection of Indonesian Overseas Workers and Department of Health (abbreviated as Depkes from Departemen Kesehatan) of the Indonesian government negotiated with its Japanese counterpart over the wage level of candidates to maximize their income. The Indonesian government asserted that the maximization of income for candidates should be prioritized, as passing the board examination was considered almost impossible. In other words, the negotiation strategy of the government was to maximize gains through work within a limited duration but not depend on a longer stay in Japan after passing the board examination.

This shows that the issue is whether the primary purpose is to accept EPA migrants for work or for training. The MHLW guidelines emphasize “it is important for accepting institutions to implement suitable training which is targeted at the passing of national qualification examinations.”¹¹⁾ Therefore, foreign candidates are expected to prepare for the national examination while working as agreed in the work contract. That is why some candidates returned to their home countries on the grounds that they did not have the determination to prepare adequately for the exam. One candidate recalls that when she consulted with the staff of JICWELS, she was informed through a text message from an interpreter at JICWELS that her apathy toward the exam preparation is “illegal,” and thus the hospital’s decision to cancel its employment contract was deemed appropriate. This implies that if the accepting institution does not provide adequate training for the exam, it also violates the purpose of the program. As the results of the surveys on study conditions indicate, the bipolarization of study hours is clearly obvious. It reflects differences in the treatment of the candidates and the understanding of the current situation by employing institutions.

This is not merely an issue of legal interpretation. The working conditions described above are not only potentially illegal but also capable of destroying the principle of accepting EPA candidates, while attempting to avoid a negative effect on the labor market. The bipolarization of learning conditions reflects the high costs shouldered by each institution. It is both rational for the accepting institutions to save additional costs such as those for education or to provide maximum training time to enhance high productivity by letting the candidates obtain a national license. Even though the provision of minimum training violates the notification and works against the purpose of the scheme, the government cannot intervene even if some candidates were returned to their home country on the grounds of apathy toward training. The minimum provisioning indicates EPA candidates are limited to nursing-aide work and this makes it clear that there is a hierarchy forming between Japanese staff and EPA candidates. This clearly has a negative impact on the labor market. Therefore, it is necessary to avoid bipolarization.

10) Based on the author’s interview with an official of the MHLW in 2010.

11) Notification No. 0519001 of Health Policy Bureau, No. 0908001 of Labour Standards Bureau, No. 0519001 of Health Policy Bureau, No. 059001 of Employment Security Bureau, No. 0519001 of Social Welfare and War Veteran’s Relief Bureau and No. 0519004 of Health and Welfare Bureau for the Elderly of the MHLW.

VII High Institutional Costs and Bipolarization

Candidates are not the only ones who face difficulties — accepting organizations have also encountered various problems of their own. Similarly, according to a MHLW survey on Japanese staff in charge of training [Japan, MHLW 2010b], 14 of the 24 institutions requested educational guidelines and teaching materials for their candidates. A survey by the Sasakawa Peace Foundation found that many respondents were critical of the fact that all the planning had been passed on to the accepting institution. The majority of Japanese hospitals do not have sufficient educational facilities because Japan does not require the renewal of nurse licenses, as does the United States, therefore additional education was not instituted at hospitals. The most serious aspect of this problem is that almost all foreign candidates' education is entrusted to the institution where they work, despite the fact that the majority of accepting institutions had no prior experience in employing foreign workers. In other words, the accepting institutions need to provide education in the Japanese-language as well as exam preparation. By 2010, an educational guideline was established.

This is in addition to the actual expense of accepting candidates. It is true that the cost shouldered by accepting institutions is not small. Until the time when candidates begin working after six-month language training, the initial cost of accepting one candidate, including mediation fees, Japanese language training, and commission paid to the National Board is approximately 600,000 yen.¹²⁾ Furthermore, if we presume that an accepting organization has two candidates and provides 13.2 hours of training per week for each of them, in addition to providing a tutor, then nearly 40 additional man-hours of work is dedicated to training each week. If administration and other costs are included, the total is much higher. Employers consider this a burden. Consequently, they elect to reduce the time allocated to training, schedule training during non-working hours or refuse to pay candidates for their training. The other side of bipolarization is based on the perception that a successful candidate could return the economic investment and/or bring recognition to the institution and above all, provide for the training, all responsibilities of the EPA program.

VIII Role of the Government in International Migration

In addition to the expense, international migration necessitates many more elements to efficiently coordinate and manage it. Let us examine one of the core causes of the high burden imposed on accepting organizations by the recruitment processes of the EPA programs.

JICWELS is the only matching agency on the Japanese side for the EPA projects. The role of international mediators is not solely to act as intermediaries matching candidates with accepting organizations. They also have a role to play in education, management, labor-management regulation and communication. According to guidelines, MHLW's role in relation to JICWELS is to report on the training of workers such as Filipino and Indonesian care workers, supervise activities, etc. In practice,

12) See JICWELS website which is the only permitted matchmaking agency in Japan. <http://www.jicwels.or.jp/> (accessed Sept. 20, 2011).

this means monitoring activities such as recruitment and mediation, receiving reports from accepting organizations, implementing training in areas such as care work, supporting those who are entering and leaving the country and consulting with both candidates and the accepting organizations.

Furthermore, duties itemized in the operating plan for 2010 include finding potential accepting organizations, reviewing requirements, translating and supplying candidate information, operating a matching system and supporting the drafting of employment contracts. Its goal is to ensure smooth implementation and administration of the acceptance of foreign nurses and care workers.¹³⁾

Mediation agencies, especially when it comes to mediating professional human resources,¹⁴⁾ tend to emphasize matching demand and supply. The EPA candidates and ordinary workers, however, are restricted in their movements and choice of work. In this case of tightly binding migration, the migration itself involves more than mediation work. Mediation agencies therefore have no choice but to address the frictions arising from cultural and language differences, such as making arrangements for workers entering or leaving the country, managing migrant workers and coping with labor-management issues that differ from those of local Japanese workers. This is because foreign workers are deprived of their bargaining power when their freedom of movement and occupation is limited and when they are given limited knowledge of labor-related laws. As a result, the employment of migrant workers brings with it the need for labor-management coordination. Employers must assume greater responsibility and a higher level of employee coordination. This differs from what is required for the employment of Japanese workers.

The acceptance of migrant workers causes various problems regarding lifestyle, immigration administration, work and other areas. Management of these problems is often entrusted to other organizations such as mediation or placement agencies. Initially, the government's position on its role was limited to controlling the entry of the candidates and matchmaking. The government's position was one of nonintervention especially in regard to contracts between the employer and the employee. That is why training was placed on the shoulders of accepting institutions. However, those institutions do not have the expertise or staff to develop the skills of foreign workers to pass licensure examinations. The majority of them have accepted foreign workers for the first time and are not sufficiently equipped to deal with them. Hospitals are not educational institutions. They lack know-how and did not have an established educational curriculum until 2010.¹⁵⁾

As a result, the accepting organizations have experienced difficulties in educating candidates. The accepting organizations conceded the accuracy of the opinions reported in the survey of the Sasakawa Peace Foundation and MHLW regarding their fumbling, trial-and-error approaches. Since there is a lack of clarity regarding the effectiveness of the training or the necessity to get involved with supporting workers' duties, training them in Japanese and preparing them for examinations, while also

13) This can be accessed from the JICWELS website, http://www.jicwels.or.jp/html/H22_information.pdf/H22_Business_plan.pdf (accessed Sept. 4, 2010).

14) The EPA candidates are basically not allowed to change their workplace. Many candidates have already asked the JICWELS whether they can change employers on the grounds of working and training conditions.

15) A model curriculum was drafted. However, this is a guideline only, with no obligation for institutions to follow it.

providing lifestyle support, drains the staff of many hospitals and care facilities that offer training.¹⁶⁾

Japanese-language teachers can teach colloquial, basic Japanese. However, they often lack sufficient knowledge of the terminology and jargon required for nursing and care work. Training instructors are informed that collaborating with experts in the field can be an effective solution but they are required to develop the curriculum and educational materials.¹⁷⁾ After the program began, materials were developed based on Japanese teaching methods for nurse and certified care-worker candidates by the Japan Foundation AOTS and instructors of the Japanese Teaching Group “Y.”¹⁸⁾ Until those materials were available, there had been a shortage of resources and lack of external organizations with the necessary know-how, especially in nonurban areas. The criticism from one organization, below, reflects the position of accepting organizations:

“The most frequently raised concern was the lack of clarity about who was responsible for this program. Though the goal of all those on the accepting side was to get their candidates to pass the national examinations, the methodology was left to each individual institution. Those who come to Japan are also doing so in order to get a license to work in Japan and to improve their skills. As a nation, however, Japan is not presenting them with a certifiable curriculum to achieve this.” (A staff member of hospital “A” in the Kanto Region)¹⁹⁾

The above opinion was valid at the time of the survey.²⁰⁾ Accepting institutions often criticize the government for its reluctance to support the scheme even though it is a national project. However, considering the fact that the employment contracts are negotiated between accepting organizations and candidates, MHLW dismissed the criticism that the government was passing the work to others and asserted that each individual organization should take responsibility and deal with employment contracts on their own. This was the institution’s first experience accepting and training foreign workers. Without a solid foundation in place, entrusting the training of workers to the accepting institution is inefficient.²¹⁾

The complaint of “having all the work dumped on us” is often found in reports, and the national budget for teaching support has rapidly swelled. Initially, the role of the government was to consider opening up the Japanese labor market to the entry of foreigners by changing immigration laws and

16) The Sasakawa Peace Foundation and MHLW survey, as well as the interviews, indicate exhaustion of the person in charge is another major factor.

17) An instruction by Chairman Osaki (Remark 4) of the Society for Teaching Japanese as a Foreign Language.

18) References, for instance, given by instructors of Japanese Teaching Group “Y” and the Japan Foundation’s Kansai Training Center in 2009.

19) Based on a survey conducted by the Sasakawa Peace Foundation Population Team, August 2009.

20) See one of the results of surveys conducted by MHLW. <http://www.mhlw.go.jp/stf/houdou/2r98520000005lftf-img/2r98520000005lvz.pdf> (accessed Aug. 14, 2011).

21) Particularly in the case of Japanese-language training, aspects of the training system planned by organizations such as the AOT which has previous experience in training are strong. So are the aspects supported by volunteers, including Japanese teachers all over Japan and citizen’s groups. The effective use of resources such as these, however, are mainly concentrated in urban areas and have not spread throughout the country.

regulations and to develop a mediation function to protect migrant workers from exploitation in the recruitment process. However, as pointed out, the mediating agencies in the cases of migration must do more than just mediate. Above all, migration under the EPAs is not simply the case of free movement in the labor market but preparation for the national licensure examination, where there is almost no infrastructure at the time of implementation as discussed later. Poor educational infrastructure for foreign workers has proven a barrier in gaining equal opportunities on par with Japanese examinees. This is another reason for pointing out an urgent need to develop a more efficient infrastructure.

In 2009, JICWELS received a 125 million-yen subsidy from MHLW to implement introductory training for care workers and nurses, establish a consultation service, inspect relevant sites, distribute resources, implement mock tests, etc. This sum was an increase over the 20 million yen received in 2008; in 2010, the subsidy increased sharply once again to 870 million yen. This was not solely because of the escalation in the number of candidates. Another contributing factor was the high number of cases where candidates had not acquired the required skill level in the Japanese language. Reports and surveys indicated that many accepting institutions were struggling to implement training programs. Fears that communication problems in the workplace could result in medical accidents prompted the increased subsidy. It was also intended to lighten the burden on the accepting organizations. Many of the accepting organizations struggling with education have requested improvements in the Japanese-language training. It is evident that at present, there are limits to what can be learned during the current six-month Japanese-language study period. MHLW insists it is essential to improve the candidates' Japanese level before they arrive in Japan and has requested the Ministry of Economy, Trade and Industry (METI) and MOFA to take appropriate steps to improve the Japanese-language training program for the candidates before and after their entry into Japan. To address these issues, MOFA's new predeparture language training has been implemented in both the Philippines and Indonesia.

The overall budget for MHLW relating to EPA in 2010 amounts to 870 million yen. Continuing from the previous year, the Ministry provides introductory training for nurses and care workers, visits accepting organizations, provides consultation and translates national examination questions. For the first time, it must provide training support for accepting organizations. The Ministry allocates 295,000 yen to each accepting organization, which trains nurse candidates; and each nurse candidate is allotted 117,000 yen to support his or her work and the study of nursing or the Japanese language.²²⁾ While these budgetary measures are expected to be effective in providing motivation and lightening the economic load on accepting organizations, establishing an infrastructure to allow continuous learning is also essential. Since this is a purpose-specific subsidiary disbursed through prefectural governments, it has proven effective in improving the educational infrastructure that some organizations were reluctant to implement to reduce expenses for candidates.

Other budgetary operations include introductory training for candidates, JICWEL's visit to all accepting hospitals and care facilities, the establishment of a trouble-shooting hotline, the translation and distribution of national board examinations from previous years, a workshop for trainers, the provision of an e-learning system and study materials, schooling for preparation of the exam, etc. In 2011,

22) Regarding certified care-worker candidates, 235,000 yen is allotted for each candidate.

the MHLW proposed an allocation of 850 million yen for the EPA project. A major difference from the 2010 budget is the sharp increase in the training support fund for each hospital that employs nurse candidates from 295,000 yen to 461,000 yen.²³⁾ The fact that the budget shifted from high costs of establishing the learning system to a maintenance level accounts for the slight decrease in the amount of the proposed budget.

IX The Sustainability of the EPA Projects and Growth of Non-EPA Nurse License Holders

In 2010, the results of the national nursing examination, including the names of the three foreign candidates who passed, were made public. Two were Indonesian candidates from Niigata Prefecture and the other, a Filipino candidate from Tochigi Prefecture. Those are not urban areas such as Tokyo or Osaka. This fact indicates that the better infrastructures for learning that might be expected in the urban institutions are not a significant factor in passing the exam. The other significant datum is that the two Indonesians who passed are from the same hospital, where the training and learning method proved highly effective [see Setyowati *et al.* in this issue]. The success of the three EPA candidates clearly refuted the preconceived idea that it is impossible for foreign candidates from non-*kanji* countries to pass the national exam.

The intensification of MHLW's support of the training infrastructure may show significant improvement in the next year. In the nursing exam administered in February 2011, 16 candidates passed the exam; 13 are candidates from the first batch of Indonesians and 2 are from the second batch. Only one Filipino candidate passed from the first batch. The pass rate of first-batch nurse candidates from Indonesia remains 14% out of a total of 104 entrants. There are differences in opinion whether this is a satisfactory level. Unless the pass rate rapidly increases, the EPA program could result in treating the majority of nurse candidates as "nursing aides" for three years at the cost of more than a billion yen in government subsidies — for what the author calls a "deskilling training project."

However, it is interesting to note that the level of care is not on the decline since the acceptance of foreign workers as had been suggested elsewhere. MHLW has disclosed that the satisfaction level of the care recipient or level of care improved after introducing EPA candidates, according to research by MHLW,²⁴⁾ JICWELS²⁵⁾ and Sasakawa Peace Foundation [see papers contributed by Shun Ohno and also Reiko Ogawa to this issue].²⁶⁾

23) The other differences are related to subsidies for care facilities employing certified care-worker candidates. The MHLW's subsidies were restricted to Japanese-language learning originally, but widened to support the study of specialized knowledge and skills.

24) See the MHLW website. <http://www.mhlw.go.jp/stf/houdou/2r985200000051tf-img/2r985200000051vz.pdf> (accessed Nov. 22, 2011).

25) See the following page, http://www.jicwels.or.jp/html/hp_images/h24_ukeire_setumei_2.pdf (accessed Aug. 21, 2010).

26) According to the unpublished survey (n=34), accepting organizations responded positively about the following points: communication skills and feedback from care recipients, etc. The only negative perception after accepting EPA candidates was the cost of employment.

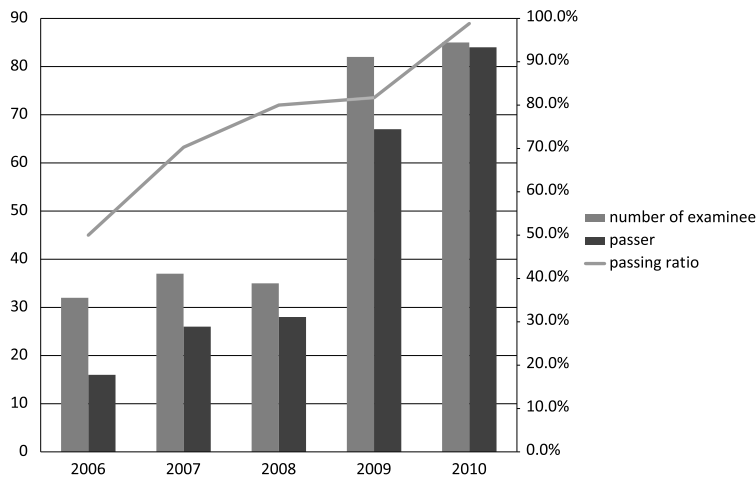


Fig. 2 Transition of Numbers of Non-EPA Foreign Nursing Examinees and Passers
Source: [Japan, MHLW 2011 (unpublished data)]

In contrast, behind the shadow of the EPA programs, there is a rapid increase in new licensed nurses among Chinese²⁷⁾ examination applicants (see Fig. 2). In 2005, a revision of a MOJ extended the duration of residency for foreign nurses who acquired a nursing license in Japan. This opens the application for the examination to more foreign license-holders under certain conditions.²⁸⁾ One of the requirements is the previous passage of the N1 Japanese Language Proficiency Test. This is in spite of the fact that the majority of the EPA candidates entered Japan without holding the N3 or upper level of Japanese proficiency.²⁹⁾ An academic record overseas equivalent to the Japanese nursing curriculum standard is also required.

Since 2006, the number of non-EPA foreign applicants has been increasing as have the numbers who have passed the nursing exam in Japan. It is worthwhile to note that the pass rate is far better than that of the EPA candidates. The ratio for non-EPA applicants was 50% in 2006, and rose to nearly 100% in 2011. This framework is not based on a government-to-government scheme but individuals. Thus the respective governments do not have to budget for exam preparation, an important difference between the EPA program candidates and non-EPA license-holders.

Fig. 3 shows the trend in the number of the EPA entrants and non-EPA foreign license-holders. The figures for non-EPA license holders do not necessarily indicate that they reside and are employed

27) Nationality is not represented in the graph. However, because some nursing schools in China provide Japanese courses, nearly all those who passed are from China.

28) Regarding requirements for foreigners who wish to take the national nursing exam in Japan, see the following HP, http://www.mhlw.go.jp/kouseiroudoushou/shikaku_shiken/kangoshi/jukenshikaku.html (accessed Aug. 21, 2010).

29) The standard for N3 is approximately 300 *kanji* letters and 1,500 vocabulary words; N1 mandates approximately 2,000 *kanji* letters with 10,000 vocabulary words.

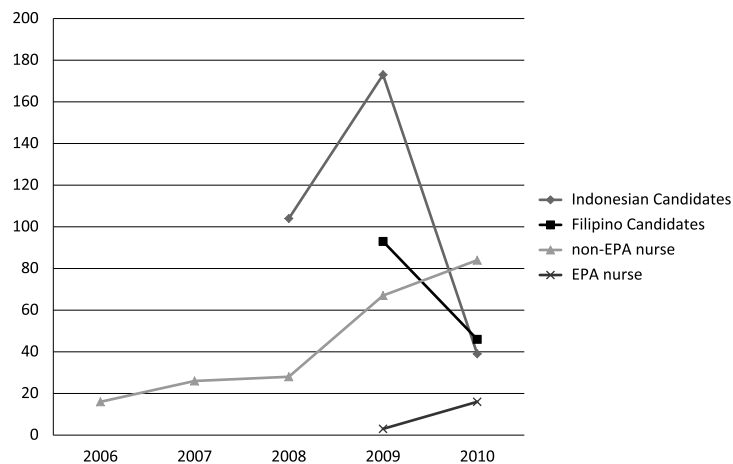


Fig. 3 Transition of Numbers of EPA Entrants to Japan and Non-EPA Nurse License-holder

Note: The data on non-EPA entrants is not published by the MHLW.

in Japan at this time. The EPA nurse-candidate trend and that of non-EPA applicants for registered nurse are contrastive. Although the number of EPA candidates who entered Japan sharply declined in 2010, that of non-EPA foreign nurses has increased steadily.

The author's interview with employees of one hospital that accepts non-EPA nurses discloses that politicians and an intermediary group have connected non-EPA new license-holders with hospitals and targeted the hospitals that have experience employing EPA nurses. According to those interviewed, the advantages of recruiting Chinese nurses are: 1) they have a head start in Japanese language education particularly in their understanding and knowledge of *kanji* or Chinese characters and preparation for the national licensure examination and 2) they are industrious. They are ready to work immediately upon entering Japan since they already have the N1-level of proficiency in Japanese as well as Japan's license as a registered nurse.

Under the EPA program, a number of Japanese hospitals and care facilities have accepted EPA candidates as a form of international support or as preparation for the future internationalization of nursing [see Ogawa in this issue], but are not committing to recruit Indonesian or Filipino workers exclusively. Furthermore, the expenses incurred, such as the cost of acceptance, special OJT and off-JT, various provisions for the candidates, the long duration of training and above all, teaching proficiency in the Japanese language, are significant.

It may be more convenient and cost-effective for the institutions to recruit foreign nurses who have Japanese-language competency and nursing licenses upon employment. Whether they continue to hire EPA candidates or employ through other routes will be determined by the future progress of the EPA program.

X Conclusion

In this article, the author has examined the threat of the formation of a dual labor market by the entry of EPA candidates for registered nurse and certified care worker in Japan. In particular, the article has investigated these fears by comparing differing legal frameworks, rules, guidelines and actual conditions. The concern over the formation of a dual labor market was raised before current agreements came into effect. Official memorandums and policies recommended mitigating the issue by ensuring equal remuneration for Japanese and EPA foreign workers and providing adequate training for Japanese proficiency and passing the national exam.

Nevertheless, it is clear that there is an increasing bipolarization regarding the number of training hours provided by accepting organizations. This is supported by interviews with those connected to the EPA venture. The first cause is the weakness of the educational infrastructure to succeed in passing the examination in Japanese. This is partly due to the fact that the EPA programs were introduced before infrastructure reconstruction took place. The noninterventionist approach of the Japanese government in the initial years contributed to this, even though EPA migration is very different from the recruitment and management of local workers.

This remains the main reason for the bipolarization of training and learning hours. Some candidates cannot cope with continuous instruction in Japanese plus preparation for the exam. Although the Japanese government has spent 1.5 billion yen in two years to improve the training infrastructure, bipolarization shows no signs of decreasing. In other words, the reality that the level of care improved under the existing programs, according to feedback from accepting organizations and care recipients, reinforced the policy of providing the least amount of study time to minimize cost.

Meanwhile, the number of incoming foreigners with nursing licenses is gradually increasing without attendant recognition from the public, something that stands in stark contrast to the EPA program. Their pass rate has already significantly outdone that of the EPA candidates. The EPA program may become one that trains nurses as nurse aides for three years unless this rate increases. This phenomenon seriously questions the program's effectiveness and the benefits for the stakeholders both those in Japan and in the participating Southeast Asian countries.

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